Regular Session, 2012

#### HOUSE BILL NO. 169

### BY REPRESENTATIVE HENRY

### 1 AN ACT 2 To amend and reenact R.S. 9:2743(B) and (D)(2), relative to certificates of encumbrances; 3 to provide procedures for identifying the mortgagor or obligor of debt; to provide for 4 affidavit to serve as satisfactory evidence; to provide with respect to liability; and to 5 provide for related matters. 6 Be it enacted by the Legislature of Louisiana: 7 Section 1. R.S. 9:2743(B) and (D)(2) are hereby amended and reenacted to read as follows: 8 9 §2743. Certificate of encumbrances; procedure; content; liability \* 10 11 B.(1) The certificate shall list all the uncancelled mortgages and instruments 12 evidencing privileges, in the order of their recordation, that appear in the mortgage 13 records and that identify the persons designated in the request as the mortgagor or 14 obligor of the debt secured by the privilege, unless the recorder is supplied with 15 evidence satisfactory to him that such instruments are in fact not those of the person 16 in whose name the certificate is sought. 17 (2) Satisfactory evidence shall include an affidavit from the Louisiana 18 licensed attorney requesting the certificate, setting forth all of the following 19 information: 20 (a) A description of the uncancelled mortgages and instruments evidencing 21 privileges. 22 (b) A statement from the affiant that he or someone under his direction has 23 researched the uncancelled mortgages and instruments evidencing privileges.

**ENROLLED** 

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## **ENROLLED**

1	(c) A statement that the affiant has determined through due and diligent
2	research that the mortgages and instruments evidencing privileges are not against the
3	person in whose name the certificate is sought.
4	(d) A statement that the affiant agrees to be personally liable to and
5	indemnify the recorder and any person relying upon the affidavit for any damages
6	they may suffer if the affidavit contains materially false or incorrect statements that
7	cause the recorder to incorrectly list or fail to list instruments in the certificate.
8	(3) The affidavit provided for in Paragraph (2) of this Subsection shall be
9	recorded in the mortgage records.
10	* * *
11	D.
12	* * *
13	(2) The recorder is liable in his official capacity for any loss caused by the
14	failure to list a mortgage or privilege in the certificate or by listing a mortgage or
15	privilege that has been cancelled from his records unless the error proceeds from one
16	of the following:
17	(a) $\frac{A}{A}$ want of exactness in the description of the property or the name of the
18	mortgagor or obligor of the debt secured by the privilege specifically given to the
19	recorder in the request.
20	(b) An incorrect statement in an affidavit submitted pursuant to Subsection
21	B of this Section.

# SPEAKER OF THE HOUSE OF REPRESENTATIVES

## PRESIDENT OF THE SENATE

## GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

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